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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/645,453	08/24/2000	Max Gerhaher		4379
30996	7590	06/30/2004		
ROBERT W. BECKER & ASSOCIATES 707 HIGHWAY 66 EAST SUITE B TIJERAS, NM 87059			EXAMINER	NGUYEN, TAIT
			ART UNIT	PAPER NUMBER
			2632	
			DATE MAILED: 06/30/2004	

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/645,453	GERHAHER, MAX	
	Examiner	Art Unit	
	Tai T. Nguyen	2632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 05 April 2004.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 10-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 21-24 is/are allowed.
- 6) Claim(s) 10-19 is/are rejected.
- 7) Claim(s) 20 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 10-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee (US 4, 990,887) in view of Tonkin (US 6,133,852).

Regarding claim 10, Lee discloses a method of warning a following vehicle when a vehicle in front applies its brakes, including the steps of:

causing at least one brake light (38) to illuminate during a braking process (figure 1); and

causing illumination to last for a retention time, e.g. 8 seconds, whereupon the brake light continue to be illuminated for a predetermined time period after ceasing depression (figure 1; col. 4, line 15 through col. 6, line 15).

Lee discloses the instant claimed invention except for: the brake light is illuminated, as a braking value of the braking process increase, in conformity with a present value of a braking value. Tonkin teaches an array (2) of eight lights (10-17) those are lit in pairs from the center pair (10 and 11) out to outer pair (16 and 17) as a braking value increase (figures 1-2; col. 4, line 47 through col. 5, line 59). Therefore, it would have been obvious to a person having ordinary skill in the art at the time the

invention was made to utilize the array as taught by Tonkin in the system as disclosed by Lee for the purpose of illuminating the braking light in conformity with the braking value the braking light to warn a driver of the following vehicle the braking process of the leading vehicle

Regarding claim 11, Lee discloses the instant claimed invention except for: the step of causing the illumination to fade, after conclusion of the retention time. Since Lee disclose the brake light (38) will remain illumination as long as 8 seconds after a depression of the brake switch is ceased (see abstract), it would have been obvious to a person having ordinary skill in the art at the time the invention was made to know that the illumination of the brake light is fade out indicating to the following vehicles that the leading vehicle is in acceleration state.

Regarding claim 12, Lee discloses the instant claimed invention except for: a braking value is provided by deceleration of the vehicle. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to know that the braking value is provided by acceleration of the vehicle when a driver applies force to a brake pedal in order to slow down the vehicle speed.

Regarding claim 13, Lee discloses the instant claimed invention except for: at least one brake light illuminates upon activation of an ABS system in conformity with a predetermined braking value. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to use ABS system in order to activate the brake light in response to the actuation of the brake switch for the purpose of providing an indication when the leading vehicle is deceleration.

Regarding claim 14, Lee discloses the retention time is provided by the duration between the end of the maximum braking value and the point in time at which the braking value drops to a predetermined fraction of the maximum value (col. 4, line 55 through col. 5, line 34).

3. Claims 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee (US 4, 990,887) in view of Tonkin (US 6,133,852) as applied to claim 10 above, and further in view of Scott (US 5,172,095).

Regarding claims15-17, Lee discloses the instant claimed invention except for: a speed of the leading vehicle is detected at the beginning of the braking process, and duration of the fading is a function the vehicle speed at the beginning of the braking process. Scott teaches an accelerometer (44) for detecting the vehicle speed for providing a deceleration signal, and a deceleration lamp (28) will remain on and flashing intermittently as long as the deceleration signal is present and for a predetermined period of time (figure 1; col. 3, lines 11-62). Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to utilize the acceleration switch and the deceleration lamp as taught by Scott into the system as disclosed by Lee for the purpose of detecting vehicle speed, providing an indication thereof, and causing the illumination to fade out after a predetermined period of time.

4. Claims 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tonkin (US 6,133,852) in view of Lee (US 4, 990,887).

Regarding claim 18, Tonkin discloses a method of warning a following vehicle when a vehicle in front applies its brakes, comprising:

at least one brake light (2) having a variable signal pattern (figures 16-17);
a control device having a computer (110, figure 15); and
means (81) for conveying to the control device at least one present braking value that characterizes a braking process, wherein the control device calculates a control value such that the braking light (2) is caused to illuminate during a braking process, as the braking values of the braking process increases, in conformity with the present braking value (figure 15).

Tonkin discloses the instant claimed invention except for: the illumination lasts for a retention time that is a function of the braking process in conformity with a maximum value of the braking value after the braking value drops below the maximum value. Lee discloses a digital delay timer (45) for controlling a braking light (38) to illuminate for a retention time (col. 6, lines 6-15). Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to utilize the timer as taught by Lee in the system as disclosed by Tonkin for the purpose of maintaining the braking light for a retention time period after the braking process ceases in order to warn a driver of the following vehicle to aware of the braking condition of the leading vehicle to avoid rear end collision.

Regarding claim 19, refer to claim 11 above.

Allowable Subject Matter

5. Claim 20 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
6. Claims 21-24 are allowed.

Response to Arguments

7. Applicant's arguments filed April 04, 2003 have been fully considered but they are not persuasive.
8. Applicant argues that there is no teaching or suggestion in Lee, Tonkin or Scott showing the illumination of the brake light of the leading vehicle to last for a retention time that is a function of the braking process in conformity with a maximum value of the braking value after the braking value drops below the maximum value. Lee discloses the digital delay timer (45, figure 1) controlling the brake light member (38) illuminated for the duration of 8 seconds more or less (col. 6, lines 6-15).

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tai T. Nguyen whose telephone number is (703) 308-0160. The examiner can normally be reached on Monday-Friday from 7:30am-5:00pm..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel J. Wu can be reached on (703) 308-6730. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

June 21, 2004
Tai T. Nguyen
Examiner
Art Unit 2632

Thomas J. Mullen, Jr.
Primary Examiner
Art Unit 2632

